

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CELSO PATINO,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE CO,

Defendant.

No. 4:16-CV-05096-EFS

**STIPULATION AND PROTECTIVE
ORDER**

**THE PARTIES TO THIS STIPULATION AND PROTECTIVE ORDER
ARE AS FOLLOWS:**

1. Plaintiff Celso Patino, by and through his attorneys of record, Peter Hess and Kyle Olive.

2. Defendants State Farm Mutual Automobile Insurance Company ("State Farm"), by and through its attorneys of record, Heather Jensen and Laura Hawes Young.

3. Plaintiff's Discovery Demands: Plaintiff may request production of certain documents by Defendant in conjunction with discovery in this litigation. Said requests for production may include a request for documents that constitute and reflect trade secrets and business/attorney work product or other confidential and proprietary research, development, and commercial information relating to claims handling, State Farm's internal processes, procedures, or training, or

1 personnel-related information. State Farm asserts that it has a legitimate business
2 interest in restricting dissemination of this information, particularly to competitors
3 or adversaries. State Farm asserts that to the extent these documents are subject to
4 production, these documents shall remain confidential. State Farm does not waive
5 any rights it has to object to the production of requested documents or seek relief
6 from the Court regarding certain documents or categories of documents that it
7 believes are not discoverable.

8 4. Purpose of this Agreement: It is the purpose of this Order that
9 Defendant may produce the requested confidential documents subject to the Order
10 or in the alternative seek relief from the Court, and Plaintiff and his counsel
11 promise that the confidential documents produced by Defendant will be used solely
12 in this case; that the confidential documents produced by Defendant will not be
13 used for commercial purposes; that the confidential documents produced by
14 Defendant will not be used for non-litigation purposes; and that the confidential
15 documents will not be disseminated to third parties or persons not necessary or
16 involved in this litigation.

17 5. Agreement Not to Disseminate: Consistent with the purpose of this
18 Order, Plaintiff, by and through his attorneys, Kyle Olive and Peter Hess, as
19 counsel for Plaintiff, shall not to divulge, permit access to, or disseminate the
20 confidential documents produced by Defendant during this litigation to any
21 individuals or entities, except persons or individuals connected to or providing
22 services in connection with the prosecution of this litigation. Plaintiff is allowed to
23 have the confidential documents reviewed and analyzed by attorneys, parties, and
24 expert witnesses or consultants, providing services relating to this litigation.

25 ///

26 //

27 /

1 6. Agreement Regarding Documents to Be Produced: Any documents
2 identified and produced which are claimed to be confidential shall be produced to
3 Plaintiff in accordance with the following:

4 a) The documents shall be labeled CONFIDENTIAL on the face of the
5 documents or Defendant shall otherwise give some indicia that it considers such
6 documents confidential.

7 b) In designating information or items for protection under this
8 agreement, Defendant agrees to take care to limit any such designation to specific
9 material that qualifies under the appropriate standards. Defendant will designate
10 for protection only those parts of material, documents, items, or oral or written
11 communications that qualify, so that other portions of the material, documents,
12 items, or communications for which protection is not warranted are not swept
13 unjustifiably within the ambit of this agreement.

14 Mass, indiscriminate, or routinized designations are prohibited. Designations
15 that are shown to be clearly unjustified or that have been made for an improper
16 purpose (*e.g.*, to unnecessarily encumber or delay the case development process or
17 to impose unnecessary expenses and burdens on other parties) may expose
18 Defendant to sanctions.

19 If it comes to Defendant's attention that information or items that it
20 designated for protection do not qualify for protection, Defendant must promptly
21 notify Plaintiff that it is withdrawing the mistaken designation.

22 c) Defendant shall produce the confidential manuals and other
23 documents, claimed to be confidential, by sending copies to Plaintiff's attorney
24 within twenty one days of execution of this Order, with discovery responses once
25 propounded, or if the subject of a motion, pursuant to the Court's order, whichever
26 is later.

1 d) After the conclusion of this case, by settlement, judgment, or
2 dismissal, **all copies** of confidential documents produced pursuant to this
3 stipulation will be returned to counsel for Defendant or destroyed. Plaintiff's
4 counsel will confirm in writing that the documents have been destroyed.

5 e) Documents not produced according to the above procedure are not
6 claimed to be confidential and are not subject to the stipulation.

7 7. Possession of Documents by Third Parties: Attorneys Kyle Olive and
8 Peter Hess, counsel for Plaintiff, will be the custodians of the confidential
9 documents produced, and shall not grant possession of the confidential documents
10 to any other person or entity, except as expressly authorized by the terms of this
11 Order. Counsel for Plaintiff may permit other persons or entities to possess and to
12 view the confidential documents as follows:

13 a) Any attorneys, associates, law clerks, paralegals, or secretaries at the
14 law firms of Olive Bearb Law Group PLLC, and Hess Law Office, PLLC, who are
15 actively engaged in the conduct of this litigation or performing tasks associated
16 therewith.

17 b) Parties, deposition and trial witnesses may view the confidential
18 documents.

19 c) Experts or consultants involved in or performing services related to
20 this litigation.

21 d) Court officials involved in this litigation, including, but not limited to,
22 court reporters, persons monitoring video equipment at depositions, any special
23 masters or discovery referees, judges, magistrates, workup attorneys, or law clerks.

24 / / / /

25 / / /

26 / /

27 /

1 e) Any person designated by the Court in the interest of justice, upon
2 such terms as the Court may deem proper.

3 Whenever the confidential documents are viewed or provided to any person,
4 attorney, expert, law clerk, paralegal, or secretary identified above, other than court
5 personnel, counsel for Plaintiff agrees to require that the individual read and sign
6 this Order, and agree to be bound by its terms and conditions. Counsel agrees to
7 maintain the signed copies of the Order as part of their files.

8 8. Documents Submitted to the Court (e.g., filing documents, exhibits):
9 If Plaintiff intends to use a portion of any CONFIDENTIAL document, that falls
10 within the scope of this Order, in any court proceeding, Plaintiff shall file that
11 document under seal and serve the opposing party with a hard copy of the
12 document(s) so filed. If Plaintiff inadvertently publicly filed any portion of any
13 CONFIDENTIAL document, he shall seek leave from the Court to seal such
14 document(s) and shall do so within seven days of realizing the public disclosure or
15 being notified by Defendant of the public disclosure.

16 9. Nonwaiver: This Order is not, and shall not be interpreted as, a
17 waiver by Plaintiff of any discovery rights or right to compel further production of
18 documents. This Order is not, and shall not be interpreted as, a waiver by
19 Defendant to claim in this lawsuit or otherwise that the confidential documents or
20 any documents described herein are privileged or otherwise nondiscoverable, or
21 inadmissible.

22 10. Reconsideration: If a dispute arises about the propriety of Defendant
23 designating any of the documents referenced in Paragraph 3 or Paragraph 6, as
24 “confidential documents” protected by this Order, any party may apply to the
25 Court for an order resolving such dispute. The burden shall remain on Defendant
26 to prove any claim of confidentiality.
27

1 11. Violation of Order: Upon an alleged violation of this Order, the Court
2 on its own motion or on the motion of any party, may grant relief as it deems
3 appropriate in law or equity. Should any provision of this Order be stricken or
4 held invalid by a Court of competent jurisdiction, all remaining provisions shall
5 remain in full force and effect.

6 12. Inadvertent Disclosures: The parties agree that discovery materials
7 may also be subject to the attorney-client privilege and/or work product protection.
8 If, after discovery materials are disclosed, a producing party notifies all receiving
9 parties of a claim that materials are protected by the attorney-client privilege or
10 work-product doctrine or any other applicable privilege or protection, the receiving
11 party shall not make any use of the contested material and shall return to the
12 producing party all copies thereof presently in its possession. Nothing in this
13 provision shall be construed to prevent or restrict any party's right to object to the
14 propriety of any other's assertion that materials are properly protected by the
15 attorney-client privilege or work-product doctrine, or any other applicable
16 privilege, or protection.

17 // //

18 // //

19 // //

20 // //

21 // //

22 // //

23 // //

24 // //

25 //

26 //

27 /

The parties agree to follow the procedure set forth in Federal Rule of Civil Procedure 26(b)(5)(B) to address any inadvertently produced attorney-client privileged or work product protected documents.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Laura Hawes Young

Laura Hawes Young, WA Bar No. 39346
Email: Laura.Young@lewisbrisbois.com
1111 Third Avenue, Suite 2700
Seattle, WA 98101
Attorneys for Defendant

HESS LAW OFFICE, PLLC

s/ Peter Hess

Peter Hess, WA Bar No. 37325
Email: peter@hesslawoffice.com
415 N. 2nd Ave
Walla Walla, WA 99362
Attorneys for Plaintiff

OLIVE BEARB LAW GROUP, PLLC

s/ Kyle Olive

Kyle Olive, WA Bar No. 37325
Email: kyle@olivebearb.com
1218 Third Ave, #1000
Seattle, WA 98101
Attorneys for Plaintiff

ORDER

IT IS HEREBY ORDERED that the foregoing Stipulated Protective Order be, and the same hereby is, ENTERED.

DATED THIS 21st day of October, 2016.

s/Edward F. Shea
EDWARD F. SHEA
Senior United States District Judge